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(A Member of the Bar of this Court)
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DONNA GARBACCIO, individually)	
and on behalf of all others similarly)	Civil Action
situated,)	
)	No. 2:16-cv-02740(JMV)(JBC)
Plaintiff,)	
)	Honorable John Michael Vazquez
v.)	United States District Judge
)	
ST. JOSEPH'S HOSPITAL AND)	
MEDICAL CENTER AND)	Honorable James B. Clark
SUBSIDIARIES, <i>et al.</i> ,)	United States Magistrate Judge
)	
Defendants.)	CLASS ACTION
)	

**DECLARATION OF SCOTT M. LEMPERT
IN SUPPORT OF PLAINTIFFS' REPLY IN SUPPORT
OF PLAINTIFFS' UNOPPOSED MOTION FOR FINAL
APPROVAL OF SETTLEMENT AGREEMENT, ATTORNEYS' FEES
AND EXPENSES, AND INCENTIVE AWARDS TO NAMED PLAINTIFFS**

Pursuant to 28 U.S.C. § 1746, I, Scott M. Lempert, declare as follows:

1. I am an attorney at Cohen Milstein Sellers & Toll, PLLC, one of two firms preliminarily approved by the Court as Class Counsel for Donna Garbaccio, Mary Lynne Barker, Anne Marie Dalio, and Dorothy Flar ("Named Plaintiffs").

ECF No. 108. I am also one of the attorneys personally involved in the litigation of this action and responsible for its prosecution. I have personal knowledge of the facts set forth below and, if called as a witness, could and would testify competently thereto.

2. Class Counsel has been primarily responsible for the prosecution of this action and negotiation of the Settlement Agreement.

3. The Settlement Agreement was preliminarily approved by the Court on October 5, 2017 (“Preliminary Approval Order”), ECF No. 108.

4. Pursuant to the Preliminary Approval Order, Class Notice was mailed on November 3, 2017 to 10,798 current and former Plan participants. *See* Dahl Affidavit (“Dahl Aff.”) ¶ 6, ECF No. 112-16.

5. By the deadline set forth in the Preliminary Approval Order (November 3, 2017), Class Counsel also posted the Settlement Agreement, the Class Notice, the preliminary approval motion and order, and other case documents on the websites identified in the Class Notice:

www.cohenmilstein.com/saintjosephs-settlement and www.kellersettlements.com.

6. On January 19, 2018, Plaintiffs filed their Unopposed Motion for Final Approval of Settlement Agreement and Certification of Settlement Class (“Final Approval Motion”), ECF No. 112, and Plaintiffs’ Unopposed Motion for Approval of Attorneys’ Fees and Reimbursement of Expenses and for Incentive Awards to Named Plaintiffs (“Fee Petition”), ECF No. 113. The Final Approval Motion and Fee Petition (with accompanying documents and memoranda) are available on the Settlement websites.

7. Since November 3, 2017, when Class Notices were mailed out and posted on the website identified in the Class Notice, Class Counsel have received and responded to approximately 60 phone, mail, and e-mail inquiries from

Settlement Class members. Of this amount, Class Counsel received and responded to roughly 4 inquiries in the period from the filing of the Final Approval Motion on January 19, 2018, to present.

8. Since November 3, 2017, the websites identified in the Class Notice have recorded 246 visitor sessions.

9. Most of the inquiries that Class Counsel has received to date have been requests for additional clarification of the Settlement's terms and relief. The inquiries varied in complexity—some were handled relatively quickly, but other Settlement Class members sought detailed information about the case, about their particular pension benefits under the Plan, and about church plan litigation generally. Class Counsel spoke to each Settlement Class member on the telephone and answered all their questions, following up with each to ensure that they understood our response and were satisfied that their concerns were fully addressed.

10. Many class members who contacted Class Counsel during the notice period expressed satisfaction with the Settlement and gratitude for Plaintiffs' and Class Counsel's efforts to protect their pension benefits.

11. Out of the 10,798 Settlement Class members who received the Class Notice, including the 60 people with whom Class Counsel have communicated, none submitted subsequent correspondence objecting to or commenting on the Settlement.

12. Class Counsel has expended over 106.50 hours of attorney and professional time after January 16, 2018 preparing the pleadings in support of Final Approval and the Motion for Fees, and responding to inquiries from the Settlement Class. This additional 106.50 hours of time corresponds to a lodestar of

\$50,202.25. Adding this amount to the lodestar of \$1,169,336.05 reported in the Fee Petition yields a total lodestar of \$1,219,538.30.

13. No Settlement Class member has objected to Plaintiffs' request for attorneys' fees and expenses.

14. No Settlement Class member has objected to the Incentive Awards requested for the Named Plaintiffs. These Plaintiffs have been actively involved in this litigation since the very beginning and are up-to-date on the status of the Settlement proceedings.

15. The significant time, energy, and assistance that Plaintiffs and Class Counsel devoted to this case resulted in an excellent Settlement that will provide material benefits to a large class.

16. In addition to the Settlement Class members, the state Attorneys General and the United States Attorney General also received notice of the proposed Settlement pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715. *See* Declaration of Howard Shapiro ¶¶ 2–5, ECF No. 112-15. However, none of these governmental agents have filed an objection to this Settlement as of this date. *Id.* ¶ 6.

17. Plaintiffs and Class Counsel believe that this Settlement is fair, reasonable, and in the best interests of the Settlement Class. Named Plaintiffs and Class Counsel are pleased to present this Settlement to the Court for its consideration, and believe strongly that it should be approved.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 27th day of February, 2018.

COHEN MILSTEIN SELLERS & TOLL,
PLLC

A handwritten signature in black ink, appearing to be 'S. Lempert', with a large, sweeping 'S' and a horizontal line extending to the right.

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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on February 27, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/Scott M. Lempert

Scott M. Lempert